

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

11/10/21
04:59 PM

Order Instituting Rulemaking Regarding
Microgrids Pursuant to Senate Bill 1339 and
Resiliency Strategies.

Rulemaking 19-09-009

**SIERRA CLUB OPENING COMMENTS ON PROPOSED DECISION ADOPTING
MICROGRID AND RESILIENCY SOLUTIONS TO ENHANCE SUMMER 2022 AND
SUMMER 2023 RELIABILITY**

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Dated: November 10, 2021

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SIERRA CLUB OPENING COMMENTS ON PHASE 2 PROPOSED DECISION

In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Sierra Club respectfully submits these comments on the Proposed Decision (“PD”) in the above-captioned proceeding. These PD comments are timely filed pursuant to the October 29, 2021 Administrative Law Judge’s Ruling accompanying the PD.

INTRODUCTION AND SUBJECT INDEX

Phase I of Track 4 of this proceeding comprises an urgent attempt to deploy additional resources to meet a potential capacity shortfall with new clean energy projects, but the measures adopted in the Proposed Decision do not successfully accomplish this. The approval of Pacific Gas & Electric’s (“PG&E”) Temporary Generation Program is particularly concerning given that the resources included in this proposal will run on diesel—potentially the most polluting and harmful fossil-based resource possible. The projected urgency is insufficient to justify this approval, constituting legal and procedural error.

Furthermore, a range of stakeholders presented alternate proposals to assist in load reduction or generation increases, and yet the Proposed Decision comprehensively addresses only the utility proposals. This suggests that non-utility proposals are not being seriously considered, despite the fact that multiple proposals had merit. It is insufficient to cursorily suggest that these proposals are better suited to other programs or proceedings when this PD specifically approves proposals that originated in other proceedings. This proceeding has effectively addressed cross-cutting issues that originated in other proceedings, such as updates to Rules 2, 18, 19, and 21, as well as the applicability of tariffs. The urgency of the issue may not allow for siloed consideration of solutions, and the hopefully transitory urgency will allow for

interim actions here that may be reviewed and refined in the course of other proceedings without the same press of time.

For this reason, we recommend the following changes to the PD:

1. Reject PG&E's Temporary Generation proposal because it would use fossil-fired diesel resources rather than advance the availability of clean carbon-free energy, and
2. Reconsider the proposals from other parties, and consider the timely development of a trial capacity or emergency services tariff consistent with the scope of Track 4.

In Appendix A to these comments, we propose corresponding changes to the text of the PD's findings of fact, conclusions of law and ordering paragraphs.

DISCUSSION

I. The Proposed Decision errs by approving PG&E's Temporary Generation proposal because it does not comply with the Governor's Emergency Proclamation, California climate law, or Commission precedent.

The PD's approval of PG&E's Temporary Generation proposal would accommodate a study to use temporary diesel generation that will be procured for the Public Safety Power Shutoff ("PSPS") events in the case of a 2022 system capacity shortfall event.¹ In other words, the PD now aims for diesel resources to potentially run beyond just the limited conditions of individual, localized PSPS events, including running all of them simultaneously for multiple grid reliability events. Sierra Club agrees with the PD that electric reliability is a priority objective to preserve public health and safety as extreme weather becomes more frequent.² However, the public health risks associated with diesel combustion should raise far more concern than the PD currently reflects. In addition to the problematic lack of safeguarding for public health in this plan, PG&E's proposal has no legal basis.

Increased use of diesel resources is in no way considered or condoned by the Governor's Emergency Proclamation. The Governor's Emergency Proclamation directed the Commission to "accelerat[e] plans for the construction, procurement, and rapid deployment of new clean energy and storage projects to mitigate the risk of capacity shortages and increase the availability of

¹ PD at 12-13.

² *Id.* at 25.

carbon-free energy at all times of day.”³ PG&E’s proposed use of existing diesel generation resources does not conform to this directive. Neither the PD nor the record in this proceeding have established how this proposal would accelerate new clean energy and storage projects.

PG&E claims that its temporary generation aided the grid during the August and September 2020 emergencies, but the Commission and other agencies have yet to evaluate the financial, environmental, and public health costs of this aid. PG&E’s temporary generation resources provided grid support only after the Governor suspended air permit requirements. It is unclear whether PG&E’s temporary generation resources would be permitted to operate during a projected shortfall if the Governor does not again suspend air permit requirements. Prior to authorizing any ratepayer funding for PG&E’s proposed study, the Commission should require PG&E to detail the air permit operating terms for its temporary generation resources in order to understand whether these resources can operate during a projected shortfall.

The suspension of air permit requirements in August and September 2020 (and again late summer 2021) was a drastic move that should not be incorporated into the Commission’s business-as-usual through a final decision. Air permits are generated through a set process designed to protect public health and to incorporate community input. It is not reasonable for the Commission to use ratepayer funding to fund the additional use of diesel resources absent clear, strong limitations to mitigate public health impacts.

In D.20-06-017, the Commission approved PG&E’s Temporary Generation program with a strong message: this is not a request that will be approved again because cleaner alternatives are necessary. The Decision states that the program is authorized for “interim, short-term use for the upcoming 2020 wildfire season” with clear limitations for one year agreements.⁴ The decision clearly stated *twice* that the Temporary Generation proposal was not meant to be a long-term resiliency strategy due to the potential health risks for the people who live or work near the generation site.⁵ Since that decision, PG&E’s Temporary Generation proposal has not been

³ Gavin Newsom, Proclamation of a State of Emergency (July 30, 2021), *available as of October 12, 2021 at* <https://www.gov.ca.gov/wp-content/uploads/2021/07/Energy-Emergency-Proc-7-30-21.pdf> (emphasis added).

⁴ D.20-06-017 at 81-82.

⁵ *Id.* at 82.

updated, it has abjectly failed to deploy clean alternatives to its program, and the Commission is again considering the approval of diesel generation use.

We also note that there is not yet clear evidence of a shortfall in capacity beyond 2022. While it is expedient to plan for that contingency, authorization of funds should be contingent upon both a determination of need and exhaustion of all preferred alternatives.

In other proceedings (namely the Extreme Weather proceeding), the Commission has considered use of diesel generation in demand response programs to meet emergency load conditions, but has also taken steps to ensure that diesel generation is a resource of last resort. In the context of demand response programs, diesel generators are identified as one type of prohibited resource⁶ for which “subsidizing backup generation with demand response funds is not appropriate; [the Commission] prefer[s] to reserve these funds for activities that reduce total energy use.”⁷ That logic remains applicable to any grid emergency as well, and therefore all other alternatives should be exhausted first.

This logic was confirmed at a recent Commission voting meeting, where President Batjer and Commissioner Rechtschaffen committed to ensuring that prohibited resources (distributed fossil-fired generation) are used during extreme weather events only as a last resort.⁸ The most recent Extreme Weather Proposed Decision—released the same day as this one—incorporates some measures to accomplish this commitment, including a tiered dispatch approach to ensure that diesel resources located in disadvantaged communities are called last. This PD, however, includes no such safeguards and is insufficient to limit the impacts of PG&E’s diesel generators.

The most immediate risk of diesel generation is for disadvantaged communities. Disadvantaged communities are already overburdened by environmental and health impacts. California law requires that these communities be prioritized in pollution reduction efforts. SB 350 established a requirement to minimize localized air pollutants and other greenhouse gas

⁶ The Commission identified distributed generation technologies using diesel, natural gas, gasoline, propane, or liquefied petroleum gas as prohibited resources with respect to their use in demand response programs, including banning their application in both topping cycle Combined Heat and Power (“CHP”) or non-CHP configuration. D.16-09-056 at 26, 92 (Conclusion of Law #6), 94-95.

⁷ D.09-08-027 at 166; *see also id* at 165.

⁸ CPUC Voting Meeting, Minutes 27-28, 36, 47-48 (March 25, 2021), *available at* <http://www.adminmonitor.com/ca/cpuc>.

emissions, with early priority for disadvantaged communities. Authorizing additional use of prohibited resources would exacerbate these harms, and failing to ensure that any additional emissions are actually only allowed to occur as a last resort after all other reasonable alternatives have been exhausted would unlawfully fail to meet the requirements of SB 350. The Commission is required to offer special protection for disadvantaged communities and to ensure that resource planning prioritizes air pollution improvements in these communities.⁹

The localized pollution impacts of diesel generation are equally harmful when they are fueled by renewable fuels of essentially the same chemistry as their fossil-derived equivalents. CARB does not certify renewable fuels for stationary sources for back-up generation, which is a requirement for exemption from Prohibited Resource policy.¹⁰ While there are debatable net emissions differences between various fossil fuels and other hydrocarbon fuels such as biodiesel and biomethane, the localized air quality and health impacts of both combustion and fugitive emissions for these fuels are similar. The combustion-related air quality and health impacts of burning fossil fuels are not mitigated by the burning of so-called “renewable” hydrocarbon fuels.

Furthermore, regional Air Quality Control District standards do not address the more localized air quality impacts of these generators, thereby overlooking their impact on already overburdened and disadvantaged communities. Localized impacts are significant and should always be considered, especially in disadvantaged communities and other locations of localized high pollution burden. The emission control equipment standards employed for fossil fuel based resources are generally more significant than those for the hydrocarbon fuel source.

CARB’s Airborne Toxic Control Measure for Stationary Compression Ignition Engines prohibits the use of these resources from supplying power to the electric grid in non-emergency

⁹ Pub. Util. Code § 454.52(a)(1)(I) (requiring load-serving entities to “minimize localized air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities”).

¹⁰ Resolution E-4906 at 77-78 (June 21, 2018) (“A customer making the fuel switch to biogas, biomethane, and renewable diesel would transform the prohibited resource into a non-prohibited resource. We agree and clarify that *if* a fuel (e.g., renewable gas, renewable diesel, biodiesel) has received renewable certification from the California Air Resources Board, it is exempt from the prohibited resource policy in D. 16-09-056.”) (emphasis in original).

situations.¹¹ Further, Section 93115.6(c) prohibits backup engines from operating in response to an impending rotating outage unless the engine's permit allows operation in anticipation of a rotating outage; the utility has ordered rotating outages; the engine operates no more than 30 minutes prior to the forecasted time of rotating outages; and the engine stops operating immediately after the rotating outage is no longer in effect. The Governor would need to issue an emergency order to authorize use of these resources above any applicable air quality permit limitations.

There is little plausible excuse for a failure to forecast resource scenarios and plan preferred mitigation well in advance, appropriately balancing risks and costs. Urgent planning resorting to the use of Prohibited Resources can only be seen as a failure and indictment of our management of the electric grid. None the less, we are here, and we must respond to emergencies as they arise, such as the current risk of regional electric grid failure. However, any actions taken to avoid outages should themselves be required to minimize harm.

Additional safeguards under consideration in the Extreme Weather proceeding would be reasonable and easy to implement here. The final decision in this proceeding should not approve consideration of any additional use of PG&E's projected PSPS temporary generation facilities that is in any way inconsistent with adopted Emergency Load Reduction Program standards.

Additionally, the following considerations and mitigations should be applied to any study, plan or proposal for use of these temporary generation facilities:

1. It must be recognized that combustion based generation creates highly localized severe air quality impacts, even if renewable or "bio" fuels are used.
2. Prohibited Resources such as diesel generation must be utilized only as a last resort when no other options are available, including all available load reduction.
3. Any planned availability of otherwise Prohibited Resources must prioritize those with the lowest emissions impacts (ex: Tier 4 emission standards)

¹¹ CARB, *Final Regulation Order: Amendments to the Airborne Toxic Control Measure for Stationary Compression Ignition Engines*, at § 93115.4(30) (2011), available at <https://ww2.arb.ca.gov/sites/default/files/classic/diesel/documents/finalreg2011.pdf> (defines "emergency use" to include "the failure or loss of all or part of normal electrical power service . . . which is demonstrated by the owner or operator to the district [Air Pollution Control Officer's] satisfaction to have been beyond the reasonable control of the owner or operator.").

4. If prohibited resources are used, then prohibited resources in disadvantaged communities must be called on last

II. Reconsideration should be given to the proposals from other parties and to timely development of a trial capacity or emergency services tariff.

Numerous proposals were submitted by parties other than the IOUs. These proposals should be considered on their individual merits on the same basis as utility proposals, including their ratepayer impact and ability to address emergency reliability needs, and it is not clear from the PD that this has occurred.

Sierra Club notes that the PD gives attention to the three proposals from Los Angeles County, but the PD suggests that these projects be proposed for consideration in the Microgrid Incentive Program (“MIP”). There are multiple problems with this approach. First, it is unclear whether these proposed projects would qualify for the MIP, as the program requires that proposed microgrid projects must serve multiple customers and be aimed at meeting the needs of disadvantaged and vulnerable communities. It is not clear how projects aimed at powering a detention facility would meet the needs of these communities. Second, the specific eligibility and scoring criteria for the MIP has not yet been detailed by the investor-owned utilities, and this decision should not predetermine these implementation details. It is highly questionable whether some of these proposals, such as the detention center, would qualify for MIP based on both the multi-property requirement and the scoring criteria which we expect to reflect the broad party support for community-centered needs and outage risk, with an emphasis on environmental and social equity and benefits to the largest number of disadvantaged and vulnerable communities. Third, the expected process for implementing the MIP and awarding funding makes it very unlikely that these projects will contribute to meeting any reliability needs next summer.

This contrasts with the approval of SDG&E’s proposals which similarly deploy battery storage and ability to store excess solar production in support of similar public facilities and critical services. The rationale for approving utility-owned projects at ratepayer expense while deferring similar county microgrid projects with reliability benefits is not clearly justified.

To the extent that the Commission is seeking to comply with Section 8371(d)’s prohibition against cost shifting,¹² the operative determination should be based on a comparison

¹² Pub. Util. Code § 8371(d).

of the lifetime ratepayer costs of each proposal relative to the value of services it provides to the grid. In support of the statute's aim of commercialization and not utility monopolization of microgrids, rate-based support for microgrids should be equally dispensed according to the services and avoided costs that each offers to ratepayers, regardless of ownership. It is not clear that SDG&E's projects have equal or lower cost to ratepayers than either privately owned facilities at the same locations, or to those proposed by Los Angeles County or others.

Likewise, the PD states that it declines to adopt Bloom Energy's recommendation for a "capacity services tariff" and the grounds that this "is out of scope for the purposes of the Expedited Phase 1 of Track 4. Additionally, we are not adopting new subsidies that would result in a cost-shift prohibited by Section 8371."¹³ While Bloom Energy's specific recommendation may not meet these criteria, it is in no way apparent that a "capacity services tariff" limited to microgrid support of reliability for the summer 2022 and 2023 period is out of scope, nor that payment for required reliability services would represent either a cost shift or a subsidy. Similarly, the PD declines to adopt MRC's proposal for an emergency services tariff for microgrids eligible to interconnect under Rule 21, on the grounds that "it may affect outcomes in other proceedings."¹⁴ However, the PD fails to identify any specific conflict of scope that it is seeking to avoid.

For these reasons, we believe such tariffs have conceptual merit, and we recommend that the Commission require either Energy Division staff or the IOUs to:

1. Assess whether a tariff could incent additional customer-sited clean microgrid resources to support reliability needs, and
2. Propose via timely Advice Letter a temporary tariff limited to the next two summers to offer payment for reliability services, consistent with existing PUC code requirements.

To avoid a cost shift such payment may be capped at a cost equal to that from alternatives that would otherwise be borne by ratepayers to achieve the same services.

¹³ PD at 31.

¹⁴ *Id.* at 32.

We are aware that market mechanisms and programs already exist to meet reliability needs; yet, the Commission seems to believe that these efforts have fallen short. Meanwhile, the barriers to participation in existing programs inhibit the full utilization of readily available microgrid and other distributed resources, and it is the express purpose of this proceeding to address such barriers. Indeed, the lack of a simple and easily accessible tariff or program for compensation for grid services has resulted in the underutilization of gigawatts of distributed energy resources (“DER”) already deployed with the full range of smart inverter functions and capabilities. The continued underutilization of these resources results in duplicative and redundant capacity being procured by utilities at ratepayer expense, including increased operation of fossil-fueled facilities, both in California and through imports. Microgrids are comprised of coordinated DER, and this PD is a clear opportunity to trial a limited “grid services” tariff to help meet the emergency need while also addressing revenue related barriers to commercial development of microgrids, without a cost shift.

We appreciate the opportunity to comment on the PD and consideration of our recommendations.

Dated: November 10, 2021

Respectfully submitted,

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APPENDIX A

Appendix A: Modifications to Proposed Decision

Pursuant to Commission Rule of Practice and Procedure 14.3(b), Sierra Club requests the following changes to the text of the Proposed Decision. The requested revisions to existing text are shown in strikethrough (for deletions) and in red font (for additions).

Finding of Fact

~~4. Expansion of Pacific Gas and Electric Company's Temporary Generation Program to address system capacity shortfalls is a necessary, stop-gap solution to address overall system safety and reliability until other cleaner and reliable resources can be brought online.~~

Conclusions of Law

1. It is reasonable to require resources adopted under this decision to provide peak and net peak grid reliability benefits starting in the summer of 2022 and summer 2023 to ensure these resources provide a meaningful contribution to maintaining reliability-, **provided that these resources are consistent with the Governor's Emergency Proclamation by accelerating plans for the construction, procurement, and rapid deployment of new clean energy and storage projects.**
2. ~~It is reasonable to require PG&E to file a Tier 2 Advice Letter, within 45 days upon the issuance of this decision, requesting authorization for reservation of temporary generation for 2022 to address system capacity shortfall needs consistent with the requirements set forth in Section 4.2 of this decision.~~
3. ~~It is reasonable for PG&E to each create a new subaccount of its existing Microgrid Memorandum Accounts, should it demonstrate that temporary generation can safely interconnect to address system capacity shortfalls starting in the summer of 2022 and summer of 2023, for the purpose of recording the costs associated with the requirements set forth in Section 4.2 of this decision.~~
4. ~~It is reasonable for PG&E to collaborate with the Commission's Energy Division to establish a regular reporting schedule that illustrates the progress PG&E is making to enhance reliability starting in summer 2022 and in 2023.~~
5. ~~It is reasonable for PG&E to, in its reporting schedule with the Commission's Energy Division, include the megawatts PG&E is making available to address a capacity shortfall under its expanded Temporary Generation Program for enhanced reliability starting in the summer of 2022 and in summer 2023 in this report.~~